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2 UNITED STATES DISTRICT COURT
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4 DISTRICT OF NEVADA
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6 LESLIE VILLA,
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8 Petitioner,
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Case No. 2:21-cv-02030-ART-VCF
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v.
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12 WILLIAM HUTCHINGS, *et al.*,
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14 Respondents.
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16 ORDER
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18 In this habeas proceeding under 28 U.S.C. § 2254, the Court appointed
19 the Federal Public Defender (FPD) to represent the Petitioner, Leslie Villa, due to
20 Villa's apparent inability to litigate this case without assistance of counsel. ECF
21 No. 21. The FPD has now filed a notice of appearance. ECF No. 22.

22 The Court notes that Respondents' pending motion to dismiss (ECF No.
23 18) is based, in large part, on arguments that the claims in Villa's current
24 habeas petition (ECF No. 7) are unexhausted and lack sufficient factual
25 support. In the interests of justice, Villa will be provided an opportunity to
correct these deficiencies with the assistance of counsel.

26 It is therefore ordered that Respondents' motion to dismiss (ECF No. 18) is
27 denied without prejudice.

28 It is further ordered that further proceedings are scheduled as follows:

29 Amended Petition. If Petitioner wishes to file an amended petition in this
30 action, he must do so within 60 days of the date this order is entered. The
31 amended petition must state whether each ground for relief has been exhausted
32 in state court. For each claim that has been exhausted, the amended petition
33 must state how, when, and where that occurred.

34 Response to Petition. Respondents will have 60 days from receipt of the
35 amended petition (or from the expiry of the period for filing an amended petition
36 if none is filed) to file and serve an answer or other response to the amended

1 petition.

2 Reply. Petitioner will have 45 days following service of an answer to file
3 and serve a reply. Respondents will then have 30 days from receipt of the reply
4 to file and serve a response to the reply.

5 Briefing of Motion to Dismiss. If Respondents file a motion to dismiss,
6 Petitioner will have 60 days following service of the motion to file and serve a
7 response to the motion. Respondents will then have 30 days following service of
8 the response to file and serve a reply.

9 Discovery. If Petitioner wishes to move for leave to conduct discovery, he
10 must file and serve that motion concurrently with, but separately from, the
11 response to Respondents' motion to dismiss or the reply to Respondents'
12 answer. Any motion for leave to conduct discovery filed by Petitioner before that
13 time may be considered premature, and it may be denied without prejudice on
14 that basis. Respondents' response to any motion for leave to conduct discovery
15 must be filed concurrently with, but separately from, their reply in support of
16 their motion to dismiss or their response to Petitioner's reply. Petitioner will
17 then have 20 days to file and serve a reply in support of his discovery motion.

18 Evidentiary Hearing. If Petitioner wishes to request an evidentiary
19 hearing, he must file and serve a motion for an evidentiary hearing concurrently
20 with, but separately from, the response to Respondents' motion to dismiss or
21 the reply to Respondents' answer. Any motion for an evidentiary hearing filed by
22 Petitioner before that time may be considered premature, and it may be denied
23 without prejudice on that basis. The motion for an evidentiary hearing must
24 specifically address why an evidentiary hearing is required and must meet the
25 requirements of 28 U.S.C. § 2254(e). The motion must state whether an
26 evidentiary hearing was held in state court, and, if so, identify where the
27 transcript is located in the record. If Petitioner files a motion for an evidentiary
28 hearing, Respondents' response to that motion must be filed concurrently with,

1 but separately from, their reply in support of their motion to dismiss or their
2 response to Petitioner's reply. Petitioner will then have 20 days to file and serve
3 a reply in support of the motion for an evidentiary hearing.

4 DATED THIS 19th day of August, 2022.



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6 ANNE R. TRAUM
7 UNITED STATES DISTRICT JUDGE
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